

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 939

**Introduced by Committee on Judiciary (Feuer (Chair), Brownley,
Evans, Jones, Krekorian, Lieu, and Monning)**

February 26, 2009

An act to ~~repeal and add Chapter 6 (commencing with Section 2450)~~
~~of Part 3 of Division 6 of the Family Code, relating to family law case~~
~~management—~~ *amend Sections 2400 and 2403 of the Family Code,*
relating to dissolution of marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 939, as amended, Committee on Judiciary. ~~Family Law Access~~
~~to Justice Act—Dissolution of marriage.~~

Existing law specifies procedures for dissolution of marriage. Existing law provides for summary dissolution proceedings if certain conditions exist at the time the proceeding is commenced, including that there are no children, as specified, neither party has any interest in real property, as specified, and the marriage is not more than 5 years in duration at the time the petition is filed. A proceeding for summary dissolution is commenced by filing a joint petition that is signed under oath by the husband and the wife, as specified.

This bill would revise the latter condition that must be met at the time a proceeding for summary dissolution is commenced to instead require that the marriage be not more than 5 years in duration as of the date of separation of the parties.

Existing law also provides that when 6 months have expired from the date of the filing of the joint petition for summary dissolution of marriage, the court may, upon application of either party, enter

judgment dissolving the marriage. At any time before the filing of the application for judgment, however, either party to the marriage may revoke the joint petition and thereby terminate the proceeding for summary dissolution.

This bill would authorize the court to enter judgment dissolving the marriage when 6 months have expired without requiring the application of either party, unless a revocation of the joint petition has been filed.

~~Existing law provides for the dissolution of marriage, the division of community property, and for the custody and support of children, among other matters, in the family courts. Existing law requires the court to hold a preliminary status conference to consider whether case management shall be undertaken and a case management plan ordered, as specified, on motion of a party, or the court's own motion. Existing law prohibits a court from ordering a case management plan absent stipulation of the parties and the plan may be terminated at any time upon stipulation of the parties or order of the court. Existing law sets forth the procedures that may be included in the court-ordered case management plan. Existing law authorizes the Judicial Council to, by rule, modify these procedures.~~

~~This bill would repeal those provisions and would instead enact the Family Law Access to Justice Act. The bill would authorize the court to order that case management plans be developed or that case management services be provided for any family law case at the request of a party or on the court's own motion, without stipulation by the parties.~~

~~The bill would require the Judicial Council to adopt a rule on or before January 1, 2011, setting forth the procedures that may be used to implement the use of case management plans or services for family law litigants, as specified. The bill would include a statement of legislative findings and declarations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2400 of the Family Code is amended to
- 2 read:
- 3 2400. (a) A marriage may be dissolved by the summary
- 4 dissolution procedure provided in this chapter if all of the following
- 5 conditions exist at the time the proceeding is commenced:

1 (1) Either party has met the jurisdictional requirements of
2 Chapter 3 (commencing with Section 2320) with regard to
3 dissolution of marriage.

4 (2) Irreconcilable differences have caused the irremediable
5 breakdown of the marriage and the marriage should be dissolved.

6 (3) There are no children of the relationship of the parties born
7 before or during the marriage or adopted by the parties during the
8 marriage, and the wife, to her knowledge, is not pregnant.

9 (4) The marriage is not more than five years in duration ~~at the~~
10 ~~time the petition is filed~~ *as of the date of separation of the parties.*

11 (5) Neither party has any interest in real property wherever
12 situated, with the exception of the lease of a residence occupied
13 by either party which satisfies the following requirements:

14 (A) The lease does not include an option to purchase.

15 (B) The lease terminates within one year from the date of the
16 filing of the petition.

17 (6) There are no unpaid obligations in excess of four thousand
18 dollars (\$4,000) incurred by either or both of the parties after the
19 date of their marriage, excluding the amount of any unpaid
20 obligation with respect to an automobile.

21 (7) The total fair market value of community property assets,
22 excluding all encumbrances and automobiles, including any
23 deferred compensation or retirement plan, is less than twenty-five
24 thousand dollars (\$25,000), and neither party has separate property
25 assets, excluding all encumbrances and automobiles, in excess of
26 twenty-five thousand dollars (\$25,000).

27 (8) The parties have executed an agreement setting forth the
28 division of assets and the assumption of liabilities of the
29 community, and have executed any documents, title certificates,
30 bills of sale, or other evidence of transfer necessary to effectuate
31 the agreement.

32 (9) The parties waive any rights to spousal support.

33 (10) The parties, upon entry of the judgment of dissolution of
34 marriage pursuant to Section 2403, irrevocably waive their
35 respective rights to appeal and their rights to move for a new trial.

36 (11) The parties have read and understand the summary
37 dissolution brochure provided for in Section 2406.

38 (12) The parties desire that the court dissolve the marriage.

39 (b) On January 1, 1985, and on January 1 of each odd-numbered
40 year thereafter, the amounts in paragraph (6) of subdivision (a)

1 shall be adjusted to reflect any change in the value of the dollar.
2 On January 1, 1993, and on January 1 of each odd-numbered year
3 thereafter, the amounts in paragraph (7) of subdivision (a) shall
4 be adjusted to reflect any change in the value of the dollar. The
5 adjustments shall be made by multiplying the base amounts by the
6 percentage change in the California Consumer Price Index as
7 compiled by the Department of Industrial Relations, with the result
8 rounded to the nearest thousand dollars. The Judicial Council shall
9 compute and publish the amounts.

10 *SEC. 2. Section 2403 of the Family Code is amended to read:*

11 2403. When six months have expired from the date of the filing
12 of the joint petition for summary dissolution, the court ~~may, upon~~
13 ~~application of either party shall, unless a revocation has been filed~~
14 *pursuant to Section 2402*, enter the judgment dissolving the
15 marriage. The judgment restores to the parties the status of single
16 persons, and either party may marry after the entry of the judgment.
17 The clerk shall send a notice of entry of judgment to each of the
18 parties at the party's last known address.

19 ~~SECTION 1. This act shall be known, and may be cited, as the~~
20 ~~"Family Law Access to Justice Act."~~

21 ~~SEC. 2. Chapter 6 (commencing with Section 2450) of Part 3~~
22 ~~of Division 6 of the Family Code is repealed.~~

23 ~~SEC. 3. Chapter 6 (commencing with Section 2450) is added~~
24 ~~to Part 3 of Division 6 of the Family Code, to read:~~

25
26 ~~CHAPTER 6. FAMILY LAW ACCESS TO JUSTICE ACT~~
27

28 2450. The Legislature finds and declares the following:

29 (a) ~~Hundreds of thousands of family law litigants seek assistance~~
30 ~~from the courts each year to resolve critical issues in the lives of~~
31 ~~their children and families. These litigants, and their children, are~~
32 ~~entitled to due process of law and a timely and appropriate~~
33 ~~resolution of their cases.~~

34 (b) ~~In order to ensure timely and appropriate resolutions, courts~~
35 ~~must have the authority to assess the needs of each case early in~~
36 ~~the process and have procedures for continued monitoring to ensure~~
37 ~~that litigants understand what is required of them, and can be~~
38 ~~referred to any and all appropriate resources.~~

39 (c) ~~Courts must have the tools to manage their calendars in a~~
40 ~~manner that promotes efficiency and reduces the cost of family~~

1 ~~law litigation so that litigants are spared unnecessary court~~
2 ~~appearances that drain their families' financial resources, and~~
3 ~~scarce judicial resources are used effectively to ensure due process~~
4 ~~of law.~~

5 (d) ~~Because many individuals only have contact with the courts~~
6 ~~through their family law cases, judicial officers in family law~~
7 ~~assignments have a unique and critical role to play by ensuring~~
8 ~~that justice is served throughout the family court process, and by~~
9 ~~actively promoting the completion of cases in a timely manner.~~
10 ~~To the extent that these litigants do not perceive that they have~~
11 ~~been fairly treated, their perception that the court system is just is~~
12 ~~significantly diminished.~~

13 2451. (a) ~~The court may order that case management plans be~~
14 ~~developed or that case management services be provided for any~~
15 ~~family law case at the request of a party, or on the court's own~~
16 ~~motion without stipulation by the parties.~~

17 (b) ~~On or before January 1, 2011, the Judicial Council shall~~
18 ~~adopt a rule of court setting forth the procedures that may be used~~
19 ~~to implement the use of case management plans or services for~~
20 ~~family law litigants. That rule shall address, but shall not be limited~~
21 ~~to, procedures for the following:~~

22 (1) ~~Early neutral evaluation of cases to ensure that litigants can~~
23 ~~receive assistance with the resolution of their cases.~~

24 (2) ~~Referrals to appropriate resources, including alternative~~
25 ~~dispute resolution, self-help services, or options for representation.~~

26 (3) ~~Management of discovery.~~

27 (4) ~~Use of conference calls and telephonic appearances.~~

28 (5) ~~Appointment of experts.~~

29 (6) ~~Case calendaring of events in a case.~~

30 (7) ~~Status conferences to ensure that cases remain on the~~
31 ~~appropriate path.~~

32 (8) ~~A process to inform litigants about the case management~~
33 ~~procedures the court may use.~~